

2010R00869
JMR/

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Plaintiff,
v.
LUSENA JABATEH

Defendant.

Honorable Robert B. Kugler, U.S.D.J.

Criminal No. 11- 439 (01)

CONSENT JUDGMENT AND
PRELIMINARY ORDER OF FORFEITURE

WHEREAS, on June 27, 2011, the United States filed an Information against Lusena Jabateh (hereinafter “Defendant”), charging him, among other things, with knowingly and intentionally conspiring and agreeing to distribute and possess with intent to distribute heroin, in violation of 21 U.S.C. § 846; and

WHEREAS, on June 27, 2011, the defendant pled guilty to the Information; and

WHEREAS, pursuant to 21 U.S.C. § 853, the Court, in imposing a sentence on a person convicted of an offense in violation of 21 U.S.C. § 846 shall order the defendant to the United States any property, real or personal, that was used or intended to be used to commit or to facilitate the commission

of such violation or that constitutes or is derived from any proceeds that such person obtained, directly or indirectly, as a result of such violation; and

WHEREAS, by virtue of the above, the United States is now entitled to possession of drug trafficking related assets that Lusena Jabateh currently owns, has previously owned or over which Lusena Jabateh currently, or in the past, exercised control, directly or indirectly, and any property the defendant has transferred, as well as any property that is traceable to, derived from, fungible with, or a substitute for property that constitutes the proceeds of his offense or used to facilitate his offense, including but not limited to, the following specific property, that is \$3,373 in United States currency (hereinafter the “Property”); and

WHEREAS the Defendant acknowledges that the Property was involved in an offense in violation of 21 U.S.C. § 846, that it constitutes property real or personal, or is derived from or traceable to the offenses or that it was used or intended to be used to commit or to facilitate the commission of the offense, and any proceeds he obtained directly or indirectly as a result on his participation in the offense, and that the Property is therefore subject to forfeiture to the United States pursuant to 21 U.S.C. § 853; and

WHEREAS the Defendant agrees to forfeit all interests in the Property, waives all interests in and claims to the Property, and hereby consents to the forfeiture of the Property to the United States; and

WHEREAS the Defendant:

- (1) Agrees to consent promptly upon request to the entry of any orders deemed necessary by the Government or the Court to complete the forfeiture and disposition of the Property;
- (2) Waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of forfeiture in the charging instrument, announcement of the forfeiture in the Defendant's presence at sentencing, and incorporation of the forfeiture in the Judgment;
- (3) Acknowledges that he understands that forfeiture of the Property will be part of the sentence imposed upon the Defendant in this case and waives any failure by the Court to advise the Defendant of this, pursuant to Federal Rule of Criminal Procedure 11(b)(1)(J), during the plea hearing;
- (4) Will, pursuant to Rule 32.2(b)(3), promptly consent to the finalization of the order of forfeiture before sentencing if requested by the Government to do so;
- (5) Waives, and agrees to hold the United States and its agents and employees harmless from, any and all claims whatsoever in connection with the seizure, forfeiture, and disposal of the Property described above;
- (6) Waives all constitutional and statutory challenges

of any kind to any forfeiture carried out pursuant to this consent judgment; and

(7) Agrees to cooperate in resolving third-party claims in favor of the United States, and for good and sufficient cause shown,

It is hereby **ORDERED, ADJUDGED, AND DECREED:**

THAT the herein described assets, namely, \$3,373 in United States currency is hereby forfeited to the United States of America pursuant to 21 U.S.C. § 853; and

THAT, pursuant to 21 U.S.C. § 853(n)(1), as incorporated through 28 U.S.C. § 2461, the United States shall publish notice of this Order and of its intent to dispose of the property in such a manner as the Attorney General may direct, including posting notice on the official internet government forfeiture site, namely www.forfeiture.gov, for at least 30 consecutive days; and

THAT, pursuant to 21 U.S.C. § 853(n)(2), any person, other than the Defendant, asserting a legal interest in any of the above-listed property must file a petition with the Court within **thirty (30)** days of the final publication of notice or of receipt of actual notice, whichever is earlier, and state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property; and

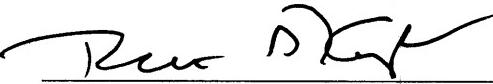
THAT, pursuant to 21 U.S.C. § 853(n)(3), the petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the forfeited property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, and any additional facts supporting the petitioner's claim and the relief sought; and

THAT the United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of this Preliminary Order of Forfeiture, as a substitute for published notice as to those persons so notified; and

THAT the aforementioned forfeited property is to be held by the appropriate United States agency in its secure custody and control until the appropriate disposition of said Property by the United States; and

THAT upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

ORDERED this 27th day of June, 2011.



Honorable Robert B. Kugler

United States District Judge

The undersigned hereby
consent to the entry and
form of this order:

PAUL J. FISHMAN
United States Attorney


By: Jason Richardson
Assistant United States Attorney

Dated: 6/27/11


Brian McMonagle, ESQ.
Attorney for Defendant Lusena Jabateh

Dated: 6/27/11


Lusena Jabateh

Dated: 6/27/11